

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION AT COLUMBUS**

FRANK LEE LARKINS, JR.,

Petitioner, : Case No. 2:19-cv-421

- vs -

District Judge Michael H. Watson
Magistrate Judge Michael R. Merz

DAVID GRAY, Warden,
Belmont Correctional Institution,

:
Respondent.

**DECISION AND ORDER DENYING MOTION FOR EXTENSION OF
TIME**

This habeas corpus case is before the Court on Petitioner's Motion for a 90-day extension of time within which to file a traverse (ECF No. 13).

When ordering an answer in this case, Magistrate Judge Jolson set a reply date of twenty-one days after the Return was filed (ECF No. 5). The Return was filed May 7, 2019, and served on Petitioner by mail (ECF No. 11, PageID 826). That made the reply/traverse due May 31, 2019 (21 days as ordered plus three days for service by mail). Petitioner filed nothing by that date. On June 5, 2019, he deposited his Motion for Extension in the prison mail system (PageID 830).

This Court is by custom generous with extensions of time which are requested before the deadline. However, Fed.R.Civ.P. 6(b)(2) provides that extensions of time to file after the period for filing has expired are to be granted only if the "party failed to act because of excusable neglect." Larkins has made no showing of excusable neglect at all.

Before the Motion was received, the Magistrate Judge had written a Report and

Recommendations on the case which is being filed contemporaneously. Larkins will have the opportunity provided by Fed.R.Civ.P. 72 to file any arguments he has as part of his objections.

June 12, 2019.

s/ *Michael R. Merz*
United States Magistrate Judge